



ELECTORAL BONDS - POLITY & GS II MAINS

Q. Electoral bonds aimed to bring transparency in electoral funding but struck with anonymity. Discuss the issues of electoral bonds in the backdrop of recent Supreme Court judgement. (15 marks, 250 words)

News: *Supreme Court declares electoral bonds scheme unconstitutional*

What's in the news?

- In a landmark unanimous judgment, the Supreme Court struck down as “unconstitutional and manifestly arbitrary” the electoral bonds scheme, which provides blanket anonymity to political donors, as well as critical legal amendments allowing rich corporations to make unlimited political donations.

Key takeaways:

- A five-judge Bench headed by Chief Justice of India D.Y. Chandrachud held that the Union government's scheme, and preceding amendments made to the Representation of the People Act, the Companies Act, and the Income Tax Act, violated the voters' right to information about political funding under Article 19(1)(a) of the Constitution.
- Amendments to the law, which allowed companies to make unlimited financial contributions to political parties under the cover of absolute anonymity, declared 'manifestly arbitrary'.

Electoral Bonds:

- The electoral bond scheme, which was notified by the government on January 2, 2018, introduced money instruments through which companies and individuals in India can donate to political parties anonymously.

Supreme Court Strike Down the Electoral Bonds Scheme:

1. Violation of Right to Information:

- SC struck down the scheme due to anonymous political donations violating the right to information.
- Right to information is crucial for participatory democracy and holding the government accountable.
- Economic inequality leads to differing levels of political engagement due to money's influence.

2. Not Proportionally Justified to Curb Black Money:

- SC found the government did not adopt the least restrictive method to curb black money.
- Examples of least restrictive methods include ₹20,000 caps on donations and Electoral Trusts.
- Curbing black money is not a legitimate purpose for restricting the right to information.



Pulling the plug

Major takeaways from the Supreme Court verdict striking down the electoral bonds scheme:

- Issuance of electoral bonds to be stopped
- SBI to submit full details of bonds purchased by donors and subsequently encashed by political parties since April 12, 2019 to the Election Commission of India by March 6
- ECI to publish the entire information given by SBI on its website by March 13



3. Right to Donor Privacy:

- Contributions made for support or quid pro quo.
- Huge corporate contributions should not be treated the same as others.
- Right to privacy does not extend to contributions made to influence policies.

4. Corporate Donations and Free Elections:

- Amendment to Companies Act allowing unlimited political contributions found arbitrary.
- Changes in the Finance Act removed the cap on donations by companies.
- Requirement to disclose political party contributions in P&L (Profit and Loss) accounts eliminated.
- Companies' contributions are often made with the intent of securing benefits.

5. Amendment to RPA, 1951:

- Amendment to Section 29C quashed by court.
- Original requirement to disclose contributions over ₹20,000 balanced voters' right to information and donors' right to privacy.
- Exception for donations through electoral bonds removed by court observation.

6. Observations by SC regarding Electoral Bonds:

- SBI ordered it to stop issuing electoral bonds immediately.
- Details of bonds purchased by political parties since April 12, 2019, must be provided to ECI by March 6, 2024.
- Details include date of purchase, name of purchaser, and denomination of bond.
- ECI to publish information on its website by March 13, 2024.



- Electoral bonds within the validity period but not encashed must be returned, with refund to the purchaser's account by the issuing bank.

Concerns Raised in Association for Democratic Reforms (ADR) Report, 2023:

1. Analysis of Donation Sources:

- In 2019-20, Electoral Bonds accounted for the highest donations at Rs 3,438.8237 crore during the general elections.
- In 2021-22, donations through Electoral Bonds amounted to Rs 2,664.2725 crore during 11 Assembly elections.
- Out of total donations of Rs 16,437.635 crore, 55.90% came from Electoral Bonds, 28.07% from the corporate sector, and 16.03% from other sources.

2. National and Regional Parties:

- National parties saw a 743% increase in Electoral Bond donations between FY 2017-18 and FY 2021-22.
- Corporate donations to national parties increased by only 48% during the same period.
- Regional parties also received a significant portion of their donations from Electoral Bonds.

3. Power-Biased Donations of Electoral Bond:

- The ruling party received the highest donations, with over 52% sourced from Electoral Bonds totaling Rs 5,271.9751 crore.
- The main Opposition party received the second-highest Electoral Bond donations at Rs 952.2955 crore (61.54% of total donations).
- The third largest party received Rs 767.8876 crore (93.27% of total donations) from Electoral Bonds.

Concerns with Electoral Bonds:

1. Contradicts Transparency:

- Critics argue that electoral bonds do not bring transparency to election funding as intended.
- Anonymity of bonds only benefits the ruling party and not the public or opposition parties.

2. Possibility of Extortion:

- Bonds sold through a government-owned bank (SBI) allow the government to know who is funding its opponents.
- This opens the door for potential extortion or victimization of big companies by the ruling party.

3. A Blow to Democracy:

- Political parties are exempt from disclosing donations received through electoral bonds.
- Voters are left unaware of who is funding which party, compromising the democratic process.

4. Compromising Right to Know:

- The Supreme Court of India has emphasized the importance of the "right to know" in elections.
- Electoral bonds limit this right and hinder freedom of expression.

5. Against Free & Fair Elections:

- Lack of transparency in electoral bonds can be exploited by the government in power.
- Access to donor details allows for potential disruption of free and fair elections.



6. Electoral Bonds and Crony Capitalism:

- The electoral bonds scheme allows corporations to fund elections without limits, leading to crony capitalism.
 - Crony capitalism is characterized by close relationships between business leaders and government officials.

7. Potential for Corruption:

- There are concerns that electoral bonds could be used as a means for quid pro quo arrangements between donors and political parties.

8. Disproportionate Influence of Corporate Donors:

- The scheme allows for corporate entities to donate large sums of money to political parties, potentially giving them undue influence over policy decisions.

9. Lack of Accountability:

- The lack of disclosure requirements for political parties receiving electoral bonds makes it difficult to track the sources of their funding.

10. Impact on Level Playing Field:

- Small and regional parties may be at a disadvantage compared to national parties that have easier access to corporate donors.

11. Bypassing of Existing Laws:

- Electoral bonds bypass the existing legal framework for political funding, such as the requirement for parties to disclose donations above a certain threshold.

12. Lack of Public Scrutiny:

- The lack of transparency in electoral bonds makes it difficult for the public to hold political parties accountable for their funding sources.

13. Potential for Money Laundering:

- There are concerns that electoral bonds could be used as a means to launder money through political parties.

WAY FORWARD:

1. Regulation of Donations:

- Some individuals or organisations may be banned from making donations.
- Donation limits may be imposed to prevent capture by large donors.
- Contribution limits are used in some jurisdictions to regulate money in politics.

2. Limits on Expenditure:

- Expenditure limits prevent financial arms races in politics.
- Some countries impose expenditure limits on political parties.
- US Supreme Court's interpretation of the First Amendment has hindered attempts at imposing expenditure limits.

3. Providing Public Funding to Parties:

- Public funds are distributed based on predetermined criteria in Germany.
- Criteria include votes received in past elections, membership fees, and donations from private sources.



- "Democracy vouchers" in Seattle allow voters to donate to candidates using publicly funded vouchers.
- Voters get to "vote" with their money before casting their ballot.

4. Disclosure Requirements:

- Regulation assumes that public scrutiny influences politicians and voters.
- Mandatory disclosure of donations is not always desirable.
- Donor anonymity can protect donors from retribution or extortion.
- Struggle to balance transparency and anonymity addressed by the Supreme Court.

5. The Chilean Experiment:

- Donors could transfer money to the Electoral Service anonymously.
- Anonymity system could prevent quid pro quo arrangements.
- Coordination between donors and parties eroded the anonymity system.

6. Establishing National Election Fund:

- The National Election Fund could eliminate concerns about donor reprisals.
- Apex court raised concern about misuse of funds for illegal activities.
- Control on end use of funds questioned by Centre.

7. Implementing Transparency Measures:

- Political parties should be required to disclose all donations received, including those through electoral bonds, to ensure accountability.

8. Limiting Corporate Donations:

- There could be a cap on the amount that corporate entities can donate to political parties to prevent undue influence.

9. Encouraging Small Donations:

- Providing incentives for small donors to contribute to political parties can help reduce reliance on large corporate donations.

10. Strengthening Enforcement Mechanisms:

- There should be strict penalties for non-compliance with funding regulations to deter illegal practices.

11. Public Funding of Elections:

- Introducing a system of public funding for elections can reduce the influence of private donors and promote a level playing field.

12. Enhancing Oversight:

- Independent bodies should be tasked with monitoring and regulating political funding to ensure compliance with laws.

13. Promoting Transparency in Electoral Bonds:

- Requiring the disclosure of donor information for electoral bonds can increase transparency in political funding.

14. Engaging Civil Society:

- Civil society organizations can play a role in advocating for reforms in electoral funding and holding political parties accountable.

FURTHER REFERENCE - [ELECTORAL BONDS](#)